

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Sprint Corp. Petition for Declaratory Ruling</b>	)	
<b>Regarding the Routing and Rating of Traffic</b>	)	<b>CC Docket No. 01-92</b>
<b>By ILECs</b>	)	<b>DA 02-1740</b>

To the Commission:

**Reply Comments of:**

**THE OKLAHOMA RURAL TELEPHONE COMPANIES:**

**Atlas Telephone Company  
Beggs Telephone Company  
Bixby Telephone Company, Inc.  
Canadian Valley Telephone Company  
Carnegie Telephone Company  
Central Oklahoma Telephone Company  
Cherokee Telephone Company  
Chickasaw Telephone Company  
Cimarron Telephone Company  
Cross Telephone Company  
Dobson Telephone Company  
Grand Telephone Company  
Hinton Telephone Company  
KanOkla Telephone Association  
McLoud Telephone Company  
Medicine Park Telephone Company  
Oklahoma Telephone & Telegraph, Inc.  
Oklahoma Western Telephone Company  
Panhandle Telephone Cooperative, Inc.  
Pinnacle Communications  
Pioneer Telephone Cooperative, Inc.  
Pottawatomie Telephone Company  
Salina-Spavinaw Telephone Company  
Santa Rosa Telephone Cooperative, Inc.  
Shidler Telephone Company  
South Central Telephone Association  
Southwest Oklahoma Telephone Company  
Valliant Telephone Company**

**August 19, 2002**

The above-referenced Oklahoma Rural Telephone Companies (collectively “Oklahoma RTCs”), by and through their attorneys, submit these reply comments in response to the initial comments filed herein by other parties participating in the Federal Communications Commission’s (“Commission”) request for comments on the practices and issues raised in the above-referenced Sprint Petition for Declaratory Ruling (“Sprint Petition”) and BellSouth’s Opposition to Sprint’s Petition. In short, the Commission should reject Sprint’s Petition and affirm the following conclusions:

- The routing issues raised by Sprint and concurred in by other carriers should not be permitted to be used to circumvent the interconnection obligations under federal law.
- ILECs should not be required to exchange traffic with another carrier over any connection, either direct or indirect, in the absence of an agreed to arrangement for interconnection.
- The carrier utilizing an indirect connection to a point of interconnection must be responsible for all costs associated with transmission and routing of calls to the actual point of interconnection within the ILECs’ network.
- Assignment and routing of telephone numbers should not be permitted to circumvent charges to a carrier’s own end users.
- Bill and keep is not an appropriate compensation mechanism for the exchange of CMRS to rural ILEC calls.

As several commenters pointed out in their initial comments herein, this is not a numbering dispute, but rather a dispute about LEC-CMRS interconnection that raises issues concerning the rights of carriers with respect to indirect interconnection and transit

traffic.<sup>1</sup> This is clear because Sprint and others do not complain that they are being prevented access to telephone numbers, but rather, they complain that their preferred routing and transmission of traffic to telephone numbers already assigned to them are not being honored by ILECs. As rural telephone companies with very few examples of direct connections between CMRS Carriers and the ILEC local exchange networks, the Oklahoma RTCs felt compelled to respond to the inappropriate and inaccurate statements of other participants in this proceeding because the Oklahoma RTCs and their customers could be dramatically affected by the outcome of this dispute.

The routing issues raised by Sprint and concurred in by other carriers should not be permitted to be used to circumvent the interconnection obligations under federal law.<sup>2</sup> Several commenters have erroneously concluded that interconnection at a tandem switch, specifically a tandem switch owned and operated by an Regional Bell Operating Company, (“RBOC”), should, with nothing more, enable them to exchange traffic with every carrier connected to that tandem.<sup>3</sup> Such an interpretation is not supported by the Commission’s rules or federal law. The statutory obligation of ILECs to interconnect with other carriers is clear. Interconnection must take place at a technically feasible point *within the ILEC’s network*.<sup>4</sup> Connection with the RBOC’s network at the RBOC tandem is not within a subtending ILEC’s network and cannot be a legal point of interconnection with such ILEC under the Act.

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<sup>1</sup> *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, *Ex Parte* Comments of the Cellular Telecommunications & Internet Association (filed June 10, 2002) (“CTIA *Ex Parte*”); Comments of SBC Communications, Inc. at p. 1.

<sup>2</sup> 47 U.S.C. §251.

<sup>3</sup> Joint Comments of Voicestream Wireless Corporation and Western Wireless Corporation, at p. 10.

<sup>4</sup> 47 U.S.C. §251(c)(2)(B)

This does not necessarily mean that an RBOC tandem and RBOC transport facilities connecting to an ILEC subtending that tandem may not be used by the interconnecting carrier to effect the exchange of traffic between it and the ILEC. A carrier may contract with an RBOC or another carrier to provide a transiting function to ILECs with whom the interconnecting carrier seeks to exchange traffic. In fact, such an arrangement was contemplated by Congress and the Commission found that it satisfied a telecommunications carrier's duty to interconnect with the ILEC pursuant to Section 251(a).<sup>5</sup> The Commission distinguished that an ILEC's duty of interconnection was governed by Section 251(c) which requires that interconnection take place within the ILEC network. In short, ILECs must provide for interconnection at a technically feasible point on the ILEC network and cannot refuse to exchange traffic with an interconnected carrier over a third party's facilities connected to that point of interconnection. However, such interconnection does not relieve the interconnecting carrier of the obligation to reach an agreement directly with the ILEC for the exchange of traffic and agreeing with the ILEC that it intends to use an RBOC or other third party's facilities to exchange traffic at the point of interconnection, within the ILECs' network.

Before traffic can be exchanged using an indirect method of interconnection, the originating carrier, the transiting carrier and terminating carrier must agree to the terms and conditions governing the exchange of such traffic. Otherwise, the ILEC does not know what or whose carriers' traffic is being terminated by other carriers and cannot bill the originating carrier for terminating such traffic. Further, the transiting carrier, the

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<sup>5</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; CC Docket No. 96-98, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, *First Report and Order*, FCC 96-325, 11 FCC Red 15499 (1996), ¶1997 (First Report and Order).

RBOC in this case, is placed in the position of facilitating the exchange of traffic without an agreement in violation of federal law. Requiring the interconnecting carrier to reach an interconnection agreement directly with the ILEC will clearly define the responsibilities of the parties and will facilitate the payment of compensation between the carriers for the respective functions they provide with respect to indirectly connected traffic. As explained below, the creative routing schemes proposed by Sprint run afoul of these simple concepts and create more disputes over intercarrier compensation than they resolve.

The Commission has also interpreted ILEC's obligation for interconnection to mean *the physical linking of the two networks* for the mutual exchange of traffic.<sup>6</sup> Because Oklahoma RTCs do not own or share in Southwestern Bell's facilities from the tandem to their service areas, the physical linking of an Oklahoma RTC's network and that of an interconnecting carrier can only occur within the service area of the ILEC. While a point of interconnection at an RBOC tandem may satisfy the requirements of the Act *with respect to the exchange of traffic with that RBOC*, it does not satisfy the requirements for interconnection with other carriers whose distinct networks subtend that tandem and should not alter the classification of the traffic between the tandem and those carriers. The actual point of interconnection with these subtending ILECs must remain within that ILEC's network pursuant to Section 251(c). As a result, the carrier utilizing an indirect connection to a point of interconnection must be responsible for all costs associated with transmission and routing of calls to the actual point of interconnection, including any transiting costs incurred by using a third party's network. The ILEC's responsibilities for the delivery of traffic extends to the point of interconnection on its

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<sup>6</sup> First Report and Order, ¶176.

network. In turn, the connecting carrier's obligations regarding delivery of traffic to the point of interconnection extends *from the point of interconnection within the ILEC network* to the connecting carrier's connection to the public switched network - wherever such carrier has chosen that point to be. The number routing and rating proposals by Sprint and the virtual NXX proposals of other carriers shifts this burden without any rational or economic basis. Under these proposals, there is no point of interconnection with the ILEC network. Rather, Sprint and other commenters seek to move the point of interconnection to the RBOC's network and require the ILEC to become responsible for the delivery of calls to a point outside its network. However, because the Oklahoma RTCs do not own interexchange facilities nor do they share in such interexchange facilities connected to SWBT's tandem, these calls cannot be delivered without using an IXC or other toll provider. Therefore, the calls cannot be completed in the manner described by Sprint and others.

This means that if an interconnecting carrier desires to connect at an RBOC tandem and use RBOC access facilities to exchange traffic with a subtending ILEC, the interconnecting carrier must be solely responsible for the facilities necessary to connect with the ILEC network. The ILEC cannot and should not be obligated to construct or arrange for the facilities necessary to exchange traffic from an RBOC's tandem to the actual point of interconnection within the ILEC's network. Such a requirement would effectively move the point of interconnection to a point outside the ILECs' network.

As discussed above, ILECs should not be required to exchange traffic with another carrier over any connection, either direct or indirect, in the absence of an agreement for interconnection. In Oklahoma, the RBOC, Southwestern Bell Telephone

Company (“SWBT”) has entered into numerous interconnection agreements that provide a transit service to the interconnecting carriers. Pursuant to these agreements, the interconnecting carrier is obligated to negotiate with and enter into an interconnection agreement with ILECs subtending the SWBT tandem prior to delivering traffic to that ILEC. The ILECs must rely on the originating carrier or SWBT to provide records identifying which carrier is responsible for the traffic terminating on the ILECs’ network via SWBT’s facilities. Only recently, when certain CMRS carriers realized the opportunity to increase their revenues through reciprocal compensation payments, did the Oklahoma RTCs receive requests to negotiate an agreement for the transport and termination of traffic. Prior to that time, SWBT delivered such carriers’ traffic to Oklahoma RTCs over SWBT’s access facilities connecting its tandem to an Oklahoma RTC switch. Because such traffic was intermingled with other interexchange from SWBT and IXC, the Oklahoma RTCs were unable to identify the carrier responsible for such traffic. As a result, CMRS carriers were terminating traffic over ILEC networks without an agreement, without compensation to the ILEC and contrary to their agreement with SWBT. The routing proposals by Sprint would only exacerbate this problem – especially once wireless number portability is implemented. The initial comments of Fred Williamson & Associates, Inc. describe in detail the anti-competitive effects of Sprint’s proposal.

As discussed above, Congress and the Commission have concurred that interconnection must occur within the ILECs’ network. Thus, there is no legal nor economic basis to require ILECs to construct or lease facilities to accommodate an arbitrary point of interconnection chosen by a CMRS carrier or other carrier that is

outside that ILEC's network. There is also no economic reason to require ILECs to provide for the facilities necessary to connect to a point of interconnection desired by an interconnecting carrier that is outside the ILEC network. ILEC networks are relatively static and serve a defined geographic area pursuant to specific authority granted by state commissions. Further, the calling scopes of customers served by ILECs have been approved by state commissions based on the public interest and other factors. Where a carrier seeks to compete and/or exchange traffic with an ILEC in the ILEC's local service area, it only makes economic sense for that carrier to establish some sort of presence within the local service area in which it seeks to compete or offer service. For example, when an entrepreneur seeks to open a competing grocery store in a given area, it must establish a store-front in that area. The existing grocer cannot be expected to take orders from customers and drive to a distant location to fill those orders from the competing grocer and drive the goods back for delivery to local customers – at its expense. Such an arrangement would not provide any economic benefit to the area's customers. Rather, the only beneficiary in this example is the distant grocer who has expanded its market at the expense of the local grocer. Sprint and the other carriers concurring in their request ask that the Commission subsidize their cost of entry by shifting certain costs to the ILEC. If the Commission wants to encourage the widespread deployment of *economic* competition, it should focus on ensuring that proper market entry signals, such as the cost to serve, are adopted.

Virtual NXXs and other creative routing proposals provide uneconomic market entry signals to new market entrants. Many commenters misconstrue the Commission's order defining local calls for reciprocal compensation purposes. Those commenters are

operating under the mistaken belief that the Commission's *First Report and Order* altered the calling scope for calls to wireless carriers. The clear language of the Commission's order dispels this myth. The Commission acknowledged that it did not have authority to establish the local calling areas of wireline LECs.<sup>7</sup> Rather, such authority rests solely with state commissions. While the Commission did establish the local calling area for calls to or from a CMRS network *for the purposes of applying reciprocal compensation obligations*, the Commission did not alter the local calling area of wireline LECs. As a result, if a CMRS carrier or other carrier enters the public switched telephone network at a location outside the local calling area of the ILEC, it will necessitate a toll call to route calls to that point – just as with any other carrier choosing to accept traffic at a similar point of interconnection, including CLECs and IXC. If the CMRS carrier seeks to offer local calling to its customers and mirror the local calling area of the ILEC, it could either enter into an interconnection agreement with the ILEC and exchange traffic directly within that calling area over a third-party's facilities or request a reverse toll billing or wide area calling arrangement that has been sanctioned by the Commission. There is nothing discriminatory or protectionist about this requirement. In fact, this arrangement provides the most parity among all carriers, the ILEC, IXCs and the interconnecting CMRS carrier or CLEC. The CMRS carriers are simply seeking to use another carrier's facilities without paying proper compensation. Further their proposals provide uneconomic signals to new market entrants and would lead to discriminatory treatment of carriers.

Bill and keep is not an appropriate compensation mechanism for the exchange of CMRS to rural ILEC calls. Reciprocal compensation mechanisms are required to provide

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<sup>7</sup> First Report and Order, ¶1035.

for the mutual and reciprocal recovery of costs associated with transporting and terminating calls from another carrier's network.<sup>8</sup> While Congress did not preclude arrangements which waive mutual recovery of costs, the Commission has correctly identified the only circumstance where it may be appropriate for carriers to waive such recovery.<sup>9</sup> That circumstance is where traffic is roughly balanced between the interconnecting carrier's networks. Certain commenters have suggested that the Commission amend its rules to allow the Commission to adopt bill and keep arrangements where it is economically efficient.<sup>10</sup> It is clear that the only time bill and keep is "economically efficient" is when the traffic is balanced or such de minimis volumes that the carriers mutually agree that the cost to bill out ways the revenue to be received and therefore agree not to bill until such time as the traffic volumes increase. The objective of bill and keep is for the benefit of both parties not just one. There is no economic efficiency in permitting a carrier to avoid liability for payment to the terminating ILEC for the termination of calls originated on the CMRS network. The only "economic efficiency" in such a circumstance is that the CMRS carrier or other carrier increases its profitability at the expense of the ILEC. As an example, the Oklahoma RTCs recently conducted a traffic study of a representative sample of ILECs which demonstrated a significant traffic imbalance between the Oklahoma RTCs and CMRS carriers. In fact, the study demonstrated that the Oklahoma RTCs terminated on average approximately 400% more CMRS traffic than did the CMRS carriers. Mandating bill and keep in such an environment is contrary to federal law and the Commission's rules and would provide the wrong entry signals to competing carriers. Therefore, the Commission

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<sup>8</sup> 47 U.S.C. §252(d)(2)(A)

<sup>9</sup> 47 C.F.R. §51.713

<sup>10</sup> Nextel at p. 8.

must not adopt bill and keep for all traffic, but instead should adhere to its existing rules which allow a state commission to adopt a bill and keep arrangement where traffic is roughly balanced and is expected to remain so.<sup>11</sup>

In sum, the Oklahoma RTCs request that the Commission reject Sprint and other CMRS carriers' requests. Such requests run afoul of the interconnection requirements of federal law and the Commission's rules and will lead to uneconomic market entry by CMRS carriers. Further, such requests are discriminatory and anti-competitive in that the requests, if approved, will lead to further deterioration of the long distance market. Finally, the Oklahoma RTCs look forward to participating to the fullest extent in this proceeding, including the presentation of *Ex Parte* comments to further elaborate on the issues discussed herein.

Respectfully submitted,

OKLAHOMA RURAL TELEPHONE COMPANIES

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<sup>11</sup> 47 C.F.R. §51.713.